

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Anthony Roy McCree Jr.,  
  
Debtor.

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Case No. 15-48418-WS  
Chapter 7  
Hon. Marci B. McIvor

**MOTION FOR ORDER APPROVING COMPROMISE**

**Jurisdiction**

1. On May 29, 2015, Anthony Roy McCree Jr. filed a voluntary petition for relief under Chapter 7 of the U.S. Bankruptcy Code. Homer W. McClarty is the Chapter 7 Trustee of the Debtor's bankruptcy estate.

2. The Trustee files this motion under Bankruptcy Rules 9014 and 9019.

3. This is a core proceeding over which this Court has jurisdiction. *See* 28 U.S.C. § 157(b)(2)(A) and 28 U.S.C. § 1334.

**Background**

4. The Debtor's records reflect payments totaling \$5,415.56 made to American Express and \$8,361.69 made to Chase within 90 days of the Petition Date. The Trustee sought to avoid and recover the payments as preferential transfers under 11 U.S.C. §§ 547 and 550.

5. American Express produced documentation to support a subsequent new value defense, reducing the amount recoverable by the Trustee to approximately \$768.13.

American Express has offered to pay the estate \$384.07 to resolve the estate's potential preference claim.

6. Chase also produced documentation to support a subsequent new value defense, reducing the amount recoverable by the Trustee to approximately \$4,000. Chase has offered to pay the estate \$2,000 to resolve the estate's potential preference claim.

### **Basis for Relief Requested**

7. The Trustee has examined the factors that many bankruptcy courts consider in determining whether a settlement is in the best interest of the estate and its creditors, including: (i) the probability of success in the litigation; (ii) the difficulties, if any, to be encountered in the matter of collection; (iii) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (iv) the paramount interest of the creditors and the preferred deference to their reasonable views in the premises. *Drexel v. Loomis*, 35 F.2d 800, 806 (8<sup>th</sup> Cir., 1929); *see also e.g., Christo v. Padgett*, 223 F.3d 1324, 1335 (11<sup>th</sup> Cir. 2000), *cert. denied*, 531 U.S. 1191, 149 L.Ed.2d 106, 121 S.Ct. 1190 (2001); *Arden v. Motel Partners (In re Arden)*, 176 F.3d 1226, 1228 (9<sup>th</sup> Cir. 1999).

8. In this case, the Trustee believes the proposed compromise is in the best interest of the estate considering the substantiated new value defenses, the amount in controversy and the cost of litigation and collection.

### **Request for Relief**

The Trustee respectfully requests that this Court grant his motion for an order approving the compromise and for such further relief as this Court deems appropriate.

Steinberg Shapiro & Clark

/s/ Tracy M. Clark (P60262)

Attorney for Trustee

25925 Telegraph Rd., Suite 203

Southfield, MI 48033

(248) 352-4700

clark@steinbergshapiro.com

Date: October 5, 2015

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Anthony Roy McCree Jr.,  
  
Debtor.

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Case No. 15-48418-WS  
Chapter 7  
Hon. Marci B. McIvor

**ORDER APPROVING COMPROMISE**

This matter is before the Court on the Trustee's motion to compromise potential preferential transfer claims against American Express and Chase. Notice of the motion was served on creditors and interested parties, and no objections were timely filed.

IT IS ORDERED as follows:

A. The proposed compromise of the bankruptcy estate's preferential transfer claim against American Express for \$384.07 is approved.

B. The proposed compromise of the bankruptcy estate's preferential transfer claim against Chase for \$2,000 is approved.

C. The settlement amounts will be made payable to "Homer W. McClarty, Trustee of Anthony McCree" and delivered to Trustee's counsel, Tracy M. Clark, Esq., at Steinberg Shapiro & Clark, 25925 Telegraph Rd., Suite 203, Southfield, Michigan 48033 within 30 days of entry of this order.

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Anthony Roy McCree Jr., xxx-xx-1188  
24280 Ridgedale St.  
Oak Park, MI 48237

Debtor.

Case No. 15-48418-WS  
Chapter 7  
Hon. Marci B. McIvor

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**21 DAY NOTICE OF MOTION FOR ORDER APPROVING COMPROMISE**

Chapter 7 Trustee Homer W. McClarty filed a motion to compromise preferential transfer claims against American Express for \$384.07 and against Chase for \$2,000. The Debtor's records reflect payments totaling \$5,415.56 made to American Express and \$8,361.69 made to Chase within 90 days of the Petition Date. The Trustee sought to avoid and recover the payments as preferential transfers under 11 U.S.C. §§ 547 and 550. American Express produced documentation to support a subsequent new value defense, reducing the amount recoverable by the Trustee to approximately \$768.13. American Express has offered to pay the estate \$384.07 to resolve the estate's potential preference claim. Chase also produced documentation to support a subsequent new value defense, reducing the amount recoverable by the Trustee to approximately \$4,000. Chase has offered to pay the estate \$2,000 to resolve the estate's potential preference claim. The Trustee believes that that proposed compromises are fair and reasonable when considered in light of the substantiated new value defenses, the amount in controversy and the cost of litigation and collection. Accordingly, the Trustee seeks approval of the proposed settlement offers and authority to execute all documents necessary to compromise the above preference claims.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the Trustee's motion, or if you want the Court to consider your views on the motion, then within 21 days from the date of service of this notice, you or your attorney must:

File with the Court a written objection or request for hearing, explaining your position at:<sup>1</sup>

U.S. Bankruptcy Court  
211 West Fort Street  
Detroit, Michigan 48226

If you mail your objection or request for hearing to the Court for filing, you must mail it early enough so the Court will **receive** it before the 21 day period expires.

You must also mail a copy to:

Tracy M. Clark, Esq.  
Steinberg Shapiro & Clark  
25925 Telegraph Rd., Suite 203  
Southfield, Michigan 48033

If an objection or request for hearing is timely filed, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time, and location of the hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Steinberg Shapiro & Clark

/s/ Tracy M. Clark (P60262)  
Attorney for Trustee  
25925 Telegraph Rd., Suite 203  
Southfield, MI 48033  
(248) 352-4700  
clark@steinbergshapiro.com

Date: October 5, 2015

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<sup>1</sup> Objection or request for hearing must comply with F. R. Civ. P. 8(b), (c), and (e).

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Anthony Roy McCree Jr.,  
Debtor.

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Case No. 15-48418-WS  
Chapter 7  
Hon. Marci B. McIvor

**CERTIFICATE OF SERVICE**

I certify that on October 5, 2015, I served copies as follows:

Documents Served:	Motion for Order Approving Compromise; Notice; Certificate of Service
Served Upon:	Crystal Jones Oswald, Esq.      Feather D. Baron, Esq. Becket & Lee LLP              JPMorgan Chase Legal Dept. 16 General Warren Blvd.      560 Mission St., 3 <sup>rd</sup> Floor PO Box 3001                      Mail Code: CA1-0301 Malvern, PA 19355              San Francisco, CA 94105
Document Served:	21 Day Notice of Motion for Order Approving Compromise
Served Upon:	All non-ECF parties listed on attached Official Court Matrix
Method of Service:	First Class Mail

/s/ Joy L. Brown, Legal Assistant  
Steinberg Shapiro & Clark  
Attorneys for Trustee  
25925 Telegraph Rd., Suite 203  
Southfield, MI 48033  
(248) 352-4700  
jbrown@steinbergshapiro.com

Label Matrix for local noticing  
0645-2  
Case 15-48418-wsd  
Eastern District of Michigan  
Detroit  
Mon Oct 5 14:02:41 EDT 2015

Aes/Nct  
Aes/Ddb  
Po Box 8183  
Harrisburg, PA 17105-8183

American Express Centurion Bank  
c/o Becket and Lee LLP  
POB 3001  
Malvern PA 19355-0701

Tracy M. Clark  
25925 Telegraph Rd.  
Suite 203  
Southfield, MI 48033-2527

FNCC/Legacy Visa  
Attn: Bankruptcy  
Po Box 5097  
Sioux Falls, SD 57117-5097

Hubbell DuVall PLLC  
25140 Lasher Rd.  
Suite 271  
Southfield, MI 48033-6311

LVNV Funding, LLC its successors and assigns  
assignee of HSBC Private Label  
Acquisition Corporation (USA)  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

Medical Payment Data  
2001 9th Avenue #312  
Vero Beach, FL 32960-6413

PRS Enterprises, LLC  
PO Box  
Union Lake, MI 48387

The Pollice Law Group  
44450 Pinetree Road  
Suite 101  
Plymouth, MI 48170-3869

ACAR Leasing LTD  
d/b/a GM Financial Leasing  
PO Box 183692  
Arlington, TX 76096-3692

American Education Services  
PO Box 8183  
Harrisburg, PA 17105-8183

Leslie K. Berg (UST)  
211 W. Fort Street  
Suite 700  
Detroit, MI 48226-3263

Dsnb Macys  
911 Duke Blvd  
Mason, OH 45040

GM Financial  
Attention: Bankruptcy  
Po Box 183583  
Arlington, TX 76096-3583

J & J Sports Productions, Inc.  
c/o HUBBELL DUVALL PLLC  
25140 Lahser Rd. Ste. 271  
Southfield, MI 48033-6311

Homer W. McClarty  
19785 West 12 Mile Road  
#331  
Southfield, MI 48076-2584

Ocwen Loan Servicing  
Attn Bankruptcy  
PO Box 24738  
West Palm Beach, FL 33416-4738

Paul R. Sinelli  
13090 Inkster Rd.  
Redford, MI 48239-3047

Uganda McCree  
2775 Seaton Circuit West  
Warren, MI 48091-1682

Aes/ Cit Ed  
Po Box 61047  
Harrisburg, PA 17106-1047

American Express  
Attn: Bankruptcy Dept.  
PO Box 981535  
El Paso, TX 79998-1535

Chase Cardmember Service  
PO Box 15548  
Wilmington, DE 19850-5548

Ethan D. Dunn  
Maxwell Dunn, PLC  
26339 Woodward Avenue  
Huntington Woods, MI 48070-1331

Clinton J. Hubbell  
HUBBELL DUVALL PLLC  
25140 Lahser Rd.  
Suite 271  
Southfield, MI 48033-6311

J and J Sports Productions, Inc.  
2380 S. Bascom Ave.  
#200  
Campbell, CA 95008-4389

Anthony Roy McCree Jr.  
24280 Ridgedale St.  
Oak Park, MI 48237-4624

PRS Enterprises, LLC  
3349 Monroe Ave.  
Suite 328  
Rochester, NY 14618-5513

State Of Mi Office Chi  
Po Box 30037  
Lansing, MI 48909-7537

United States District Court  
Eastern District of Michigan  
231 W. Lafayette Blvd.  
Detroit, MI 48226-2794



Verizon  
500 Technology Dr  
Ste 550  
Weldon Spring, MO 63304-2225

Wakefield & Assoc  
10800 E Bethany Dr Ste 4  
Aurora, CO 80014-2687

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)J & J Sports Productions, Inc.	(u)Luke Barnes Address Unknown	(u)Daniel M. McDermott
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End of Label Matrix	
Mailable recipients	31
Bypassed recipients	3
Total	34